

BEFORE THE FISH AND WILDLIFE COMMISSION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT AND
ARM 12.11.501 and the adoption of) ADOPTION
NEW RULE I and NEW RULE II)
pertaining to the Fort Peck Dredge)
Cuts and Fort Peck Reservoir)

TO: All Concerned Persons

1. On January 20, 2017, the Fish and Wildlife Commission (commission) published MAR Notice No. 12-470 pertaining to the public hearing on the proposed amendment and adoption of the above-stated rules at page 124 of the 2017 Montana Administrative Register, Issue Number 2.

2. The commission has amended the following rule as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

12.11.501 LIST OF WATER BODIES (1) through (41) remain as proposed.
~~(42) Fort Peck Dredge Cuts~~ [NEW RULE I]
(43) remains as proposed but is renumbered (42).
~~(44)~~(43) Fort Peck Reservoir ARM 12.11.2401, 12.11.3601,
& 12.11.5905
(45) through (117) remain as proposed but are renumbered (44) through
(116).

AUTH: 87-1-301, 87-1-303, MCA

IMP: 87-1-303, MCA

3. The commission did not adopt the following rule as proposed: New Rule I. The commission deferred to the department's assessment that there have never been any documented complaints or incidents of the boating activity that was described in the petition. In addition, most of the public comment received was in opposition. Commenters said that they did not see safety issues as a concern in this area. Since there does not seem to be a public health, safety, or welfare concern in this area, the commission did not adopt the proposed no wake zone on the Bay of Park Grove.

4. The commission has adopted the following rule as proposed: New Rule II (12.11.5905).

5. The commission has thoroughly considered the comments and testimony received. A summary of the comments received on New Rule II and the commission's responses are as follows:

COMMENT #1: The commission received two comments in support of the proposed no wake zone on Duck Creek Bay stating that safety was a concern in the bay.

RESPONSE #1: The commission appreciates your participation in this rulemaking process.

COMMENT #2: The commission received one comment in opposition to the proposed no wake zone on Duck Creek Bay. The commenter believed there was a 200 foot no wake zone from the shoreline already in place for this area, and stated that there could be safety concerns due to a no wake zone causing bottlenecking in the bay when it is busy, and causing it to take longer time to get off the lake during thunderstorms.

RESPONSE #2: The 200 foot from shoreline no wake zone currently exists in the Western Fishing District only, west of the continental divide, and is not in effect on Fort Peck Reservoir. The commission feels the safety in the bay will be heightened even during extremely busy times because boaters will only be able to travel at a less than wake speed. The commission believes that if there is a wait time caused by boaters trying to get off the lake at the same time during storms, that the wait time will likely come from waiting for the boat ramp, not due to a no wake zone.

COMMENT #3: The commission received one comment stating damage from the shoreline is caused more by wind then boaters. The comment did not state an opinion for or against the proposed no wake zone.

RESPONSE #3: The comment is outside the scope of this rulemaking.

/s/ Aimee Hawkaluk
Aimee Hawkaluk
Rule Reviewer

/s/ Dan Vermillion
Dan Vermillion
Chair
Fish and Wildlife Commission

Certified to the Secretary of State May 15, 2017.